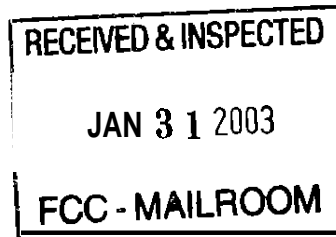


Nielsen  
Media Research



David A. Schwartz-Leeper  
Senior Vice President and  
General Counsel

299 Park Avenue  
New York, NY 10171

212 708 7711  
212 708 6927  
david\_schwartz\_leeper@tvratings.com

January 30, 2003

**VIA FEDERAL EXPRESS**

Office of the Secretary  
Federal Communications Commission  
9300 East Hampton Drive  
Capitol Heights, MD 20743

Re: In the Matter of: Rules and Regulations Implementing the  
Telephone Consumer Protection Act of 1991  
CG Docket No. 02-278  
CC Docket No. 92-90

---

Dear Secretary:

Enclosed are the reply comments of Nielsen Media Research, Inc. in support  
of the comments previously submitted by CMOR.

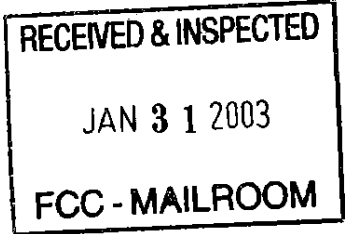
Sincerely,

A handwritten signature in black ink, appearing to read "David A. Schwartz-Leeper".

David A. Schwartz-Leeper

Classified by: 6062  
List ABODE

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554



**In the Matter of:**

<b>Rules and Regulations Implementing the</b>	)	<b>CC Docket No. 02-278</b>
<b>Telephone Consumer Protection Act of 1991</b>	)	<b>CC Docket No. 92-90</b>

**REPLY COMMENTS OF NIELSEN MEDIA RESEARCH, INC.**

Nielsen Media Research, Inc. ("Nielsen") submits the following reply comments in support and supplementation of the comments previously submitted by CMOR in response to the Commission's Notice of Public Rulemaking in the above-captioned proceeding.

Nielsen -- the largest and best-known television research provider in America -- produces the television audience estimates popularly known as the "Nielsen ratings." The independent television audience measurement system offered by Nielsen embraces the highest standards of survey research accuracy and integrity. We conduct survey research into television viewing by inviting members of the general public, selected at random and contacted by telephone, to participate in our television viewing surveys. We provide a nominal cash payment that is not contingent on participation in the survey; we do not conduct any plan, program or campaign to induce payment or the exchange of any other consideration for any goods or services by, and we do not make telemarketing sales or solicitation calls to, consumers, and are therefore not engaged in telemarketing/telephone solicitation", and are not "telemarketers/telephone solicitors." As is the case for all legitimate survey research, the results of our survey research into television audiences are analyzed and reported on an aggregate basis; we do not release any personally-identifiable information about our respondents to any third party for any purpose.

Nielsen's television audience research is used by media entities such as commercial broadcast television networks, cable networks and local cable systems and local television stations to respond to the public's television viewing behavior, and thus the results of our survey research directly affect the television viewing choices available to the American public. These media entities, as well as advertisers and their agencies, also use the results of our survey research to buy and sell time on television. The audience estimates resulting from our survey research serve as the "currency" in all transactions between buyers and sellers, which add up to approximately \$60 billion in national and local advertising spending each year. Thus, our survey research is used by the media and advertisers to value, place and make other decisions about the advertising of products and

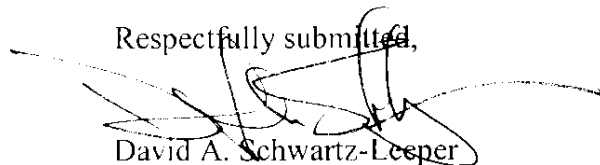
services on television. In addition, many media entities and other organizations use Nielsen's audience estimates and other television viewing information in their dealings with the Commission, and the Commission itself makes use of Nielsen's information to inform its policies and regulatory activities: most recently, for example, the Commission received survey research information prepared by Nielsen in connection with the Commission's biannual review of its media ownership rules. Without the ability to use telephone calls in conducting our survey research, Nielsen -- and the American television marketplace it serves -- could not function effectively.

Telephone calls for survey research purposes are clearly different, in both their intent and use, from sales-related contacts. Survey research calls are made to a representative sample of the population, with the respondent, who is the lifeblood of the survey research industry, in mind. Such calls **seek** to gather the opinions and attitudes of the public on a variety of issues: as noted above, in the case of the television audience measurement services provided by Nielsen, our survey research helps media entities and advertisers respond to public opinion about programming and the advertising of products and services on television.

**As** CMOR states in its Comments, sales or solicitations are not a part of legitimate survey research activities. Survey Research Industry Codes and Guidelines prohibit using the guise of research to solicit or sell a product or service. Furthermore, confidentiality principles, which are at the core of survey research, prohibit the sharing of personally-identifiable data of respondents with any third parties. Indeed, for the purpose of conducting survey research relating to television audiences, information about individuals is not needed after data has been cumulated into similar groups of respondents. It is these meaningfully sized groups of like respondents, rather than information relating to the identity of any individual respondent, that are used to determine the desirability and value of television programming and advertising.

Nielsen Media Research fully supports CMOR's assertion that, unlike sales or solicitation calls, survey research calls were not intended to be restricted by the Telephone Consumer Protection Act of 1991 (the "TCPA") and therefore should be exempt from the TCPA Rules. Such calls do not present the nuisance and privacy concerns of sales-related contacts that are the focus of the TCPA restrictions. We therefore respectfully request that survey research calls be exempt from all provisions of the TCPA Rules.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "David A. Schwartz-Leeper", is written over the typed name.

David A. Schwartz-Leeper  
Senior Vice President, General Counsel  
Nielsen Media Research, Inc.  
299 Park Avenue  
New York, New York 10171